

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

STATE OF TEXAS, et al.,)
Plaintiffs,)
)
VS.)
)
UNITED STATES OF AMERICA, et al.,) Case No. 1:18-CV-68
Defendants,)
)
and)
)
KARLA PEREZ, et al.,)
)
Defendant-Intervenors.)

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ORAL DEPOSITION OF
LLOYD POTTER, Ph.D.
JUNE 27, 2018

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ORAL DEPOSITION OF LLOYD POTTER, Ph.D., produced as a witness at the instance of the Defendant-Intervenors, and duly sworn, was taken in the above-styled and numbered cause on the 27th of June, 2018, from 9:59 a.m. to 1:46 p.m., before Kathleen Casey Collins, CSR, in and for the State of Texas, reported by machine shorthand, at the Offices of the Attorney General, 301 West Fifteenth Street, Seventh Floor, Austin, Travis County, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

1 A. Yes.

2 Q. Would you say that you are an expert in youth
3 violence prevention?

4 A. Yes. I'm not as current on that in the last
5 nine years as I was previously, but yes. I keep up with
6 it, but I don't -- I'm not active in youth violence
7 prevention research any longer.

8 Q. And with respect to suicide prevention, would
9 you describe yourself as an expert?

10 A. It's similar to the youth violence. I keep up
11 with it. I read articles and so on on it. But I'm not
12 doing -- actively doing research in suicide prevention
13 for the last eight years or so.

14 Q. Are you actively doing research right now on
15 any topic in demography?

16 A. Yes.

17 Q. What is that topic?

18 A. Well, one, we produce the population estimates
19 and projections for the state. So there is applied
20 research to be done in the production of those
21 population estimates and projections, which involve
22 doing research into fertility, mortality, and migration,
23 which are the components of population change; and
24 having an understanding of those components and how they
25 act and behave within the Texas population are key

1 elements to -- and having done research and
2 understanding what's happening with that are key
3 elements to us producing accurate population estimates
4 and projections.

5 Q. Would you say that today you are an expert in
6 the subfield of demography that produces population
7 estimates?

8 A. Yes.

9 Q. Okay. When I'm quiet, I'm crossing off
10 questions --

11 A. Okay.

12 Q. -- because we've covered a lot.

13 When you teach demographic methods, do
14 you teach the methods that are used at your center to
15 make population estimates?

16 A. That's a component of the methods that we
17 teach, yes -- or that I teach.

18 Q. When your center makes population estimates
19 for Texas, what are the databases that you typically
20 rely upon?

21 A. For population estimates, there's quite a few.
22 So we receive vital statistics from the State department
23 of -- Department of State Health Services. We conduct
24 surveys of a number of different entities. So we survey
25 cities to get information on -- and counties on building

1 permits. We have data from the Texas Education Agency
2 on school enrollment.

3 I'm trying to think what else. Those are
4 probably some of the major sources of data that we use.

5 Q. How about data from the U.S. census?

6 A. For our estimates, the census is the base of
7 that, and so the decennial census is the foundation that
8 we build off of.

9 And then the Census Bureau also produces
10 population estimates, and we'll use those to examine our
11 estimates to see if they're in the ballpark; and if
12 they're not, then we do research to figure out if
13 they're wrong or if we're wrong and then to adjust them
14 if we are.

15 Q. Is it correct to say that sometimes you look
16 at the U.S. Census American Community Survey data?

17 A. Yes. I frequently -- for -- for production --
18 not for actual production of the estimates; but we do
19 use the American Community Survey to identify certain
20 indicators that give us some sense of our level of
21 accuracy.

22 Q. Does your center provide estimates of the
23 undocumented or unauthorized population in Texas?

24 A. We do not currently do that. We tend to rely
25 on the Pew Research Center estimates and then the

1 Department of Homeland Security estimates. I mean,
2 those are the ones that we'll point to, and they tend to
3 be pretty close to each other.

4 Q. What are some of the methodological challenges
5 associated with estimating the unauthorized population
6 in Texas?

7 A. Well, one is you have to use an indirect
8 method because there's no source of directly asking --
9 identifying unauthorized immigrants and asking them
10 their status; and even if somebody did do that, I think
11 there would be some question as to the accuracy of the
12 reporting. And so essentially the methodology relies on
13 indicators of things that would be associated with being
14 undocumented.

15 Q. And so, for example, data regarding people who
16 are noncitizens is potentially associated with
17 undocumented. Is that right?

18 MR. DISHER: Objection, vague.

19 A. Yes. The -- the methodology that is used by
20 the Pew Research Center identifies people who respond to
21 the American Community Survey as noncitizens and other
22 characteristics that they have in terms of assessing a
23 probability of them being undocumented immigrants.

24 Q. Are you familiar with any of the disclaimers
25 that the Pew center provides with its estimates of

1 people respond to the American Community Survey asking
2 where they lived last year, if they lived in a foreign
3 country, that's the foundation of the shift that we've
4 seen in the number and percent from -- toward Asian
5 countries and away from Mexico and Central and South
6 American countries.

7 Q. Has your center or have you done any research
8 specific to any decline in immigration from Mexico to
9 Texas?

10 A. Could you say that one more time?

11 Q. Has either you or your center done any
12 research specifically on the decline of migrants coming
13 from Mexico to Texas?

14 A. I wouldn't say we've done research. We've
15 done -- other than just tabulating and reporting. If
16 you call that research then...but we've not, like,
17 looked to see, well, why is that happening and looking
18 at that.

19 Q. And, similarly, with respect to return
20 migration, has your center tabulated and reported data
21 on return migration from Texas to other countries?

22 A. We have, again, from -- let me take back the
23 "we have."

24 I think we've just reported from other
25 sources. So we've not -- so, again, from, I think, a

1 number of researchers that have looked at return
2 migration. So we have not because you -- with the
3 American Community Survey, you don't know who's
4 returned.

5 Q. Okay. So you have -- in your center, you have
6 reported data or reported analysis by others regarding
7 return migration from -- of people living in Texas?

8 A. Yeah. I'm not -- when you say "reporting," do
9 you mean --

10 Q. Well, making public in any manner.

11 A. Yes. I mean, so from the report I was
12 mentioning earlier, the Pew research report that --
13 that -- research that has looked at return migration,
14 and I have presented that in presentations that I've
15 given.

16 Q. Okay. And the data that you're talking about
17 from the Pew Research Center, was that specific to
18 Texas?

19 A. No. It was for the U.S.

20 Q. And would it be fair to say that when you've
21 reported the data for the U.S. about return migration,
22 you haven't provided any analysis of the reasons why
23 people are returning to their home countries?

24 MR. DISHER: Objection, vague.

25 A. I think in the context of that, there is

1 this -- I probably have articulated speculation that --
2 that it probably has to do with a lack of employment
3 opportunity within the United States, and so the
4 migrants are kind of not able to work here and so
5 they're returning home.

6 Q. And when you talk about that lack of
7 employment opportunity, is that associated with the
8 economic decline after --

9 A. Right.

10 Q. -- 2008?

11 A. So it would have been, yeah, post the
12 recession or kind of as the recession was really picking
13 up.

14 There were reports that immigrants, both
15 authorized and unauthorized, were returning to their
16 country of origin because they were losing -- again, the
17 reports were more speculative in terms of why they were
18 going. I haven't seen anything that says we know that
19 this is the reason that they were leaving.

20 Q. Okay. You anticipated my next question, which
21 is is it correct to say that neither you nor your center
22 have done research on the reasons why individuals might
23 leave Texas and return to their home countries?

24 MR. DISHER: Objection, vague.

25 A. Yes, that's fair.

1 Q. Okay. Would you say that you have a research
2 specialization in immigrant populations?

3 MR. DISHER: Objection, vague.

4 A. Yeah. I don't know if I would say I have a
5 specialization. I have pretty deep familiarity with it.
6 But I wouldn't say if -- if what's your -- if somebody
7 asks me what my area of research is, I wouldn't say I'm
8 an immigrant specialist.

9 Q. Okay. Do you have a research specialization
10 in the factors that lead to either legal or illegal
11 immigration to the United States?

12 A. No.

13 Q. Does your -- does your -- I'm sorry. I want
14 to get the words right.

15 Does your institute conduct research
16 specifically on unauthorized immigrants living in Texas?

17 A. We have.

18 Q. When was that?

19 A. Probably about five or six years ago.

20 Q. And what was that research?

21 A. We had attempted to estimate the geographic
22 distribution of the unauthorized immigrant population in
23 the state.

24 Q. Did you end up publishing those results?

25 A. No.

1 Q. Was it because you weren't able to get sort of
2 confidence results?

3 A. We attempted to publish them. The methodology
4 that we had employed was questioned by one of the
5 reviewers, and the staff member that we had working on
6 this left and we never followed through and addressed
7 the -- it was doable, but we just didn't. We weren't
8 able to address it.

9 Q. Have either you or your institute ever
10 conducted research on the reasons that immigrants come
11 to or leave the United States, and specifically
12 undocumented immigrants?

13 MR. DISHER: Objection, vague.

14 A. No.

15 Q. Let's turn to your declaration, which is
16 Exhibit 3.

17 A. Okay.

18 Q. I think we can put your CV aside for the
19 moment; although, I could ask you questions about it all
20 day because I think it's absolutely fascinating. I'm
21 mindful of Andrew's airplane flight, and so let's turn
22 to your declaration.

23 Can you summarize for me the specific
24 opinions that you offer in your declaration?

25 A. Let's see. I think probably one is that

1 there's pretty strong evidence that the bulk of
2 migration behavior, especially distance migration
3 behavior, is economically and specifically work
4 associated.

5 And -- and then probably the other
6 summary point would be that if DACA participants were
7 unable to work, some number and/or percentage of them
8 would likely leave the United States and return to their
9 country of origin or another country where they may be
10 able to work.

11 Q. Okay. Do you offer any other opinions in the
12 report besides the two that you've given to me?

13 A. Well, I think I do articulate some of the
14 characteristics that I think we could anticipate would
15 be associated with the propensity for an immigrant to
16 return to their country of origin.

17 Q. Would it be fair to say that with your -- with
18 respect to your opinion about DACA participants
19 returning because of work-related reasons that that
20 opinion does not distinguish DACA recipients from other
21 unauthorized workers who might lose their employment?

22 MR. DISHER: Objection, vague.
23 Objection, misstates the testimony.

24 Go ahead and answer.

25 A. Yeah. I think there probably is a distinction

1 between the two that could be made.

2 Q. Okay. And so specifically with respect to
3 return migration because of employment reasons, which is
4 what I understand your opinion about DACA recipients is,
5 tell me how your opinion would differentiate, if it
6 does, between a DACA recipient making the decision to
7 return and migrate versus a plain-old undocumented
8 person.

9 MR. DISHER: Objection, vague.

10 A. I think a DACA participant has a -- currently
11 has a different status than an unauthorized immigrant;
12 and so a DACA participant probably has -- has other
13 motivations to potentially -- different -- different
14 sets of motivations than an unauthorized immigrant.

15 Q. I understand. And so specifically with
16 respect to work-related reasons -- because I know that
17 people's motivations can really vary quite a bit. So
18 let me ask you whether your opinion regarding the
19 likelihood of an individual to leave Texas upon losing
20 DACA and work authorization is similar to the likelihood
21 of an unauthorized person who is not somebody who just
22 lost DACA?

23 MR. DISHER: Objection, vague. Go ahead.

24 A. So the -- I think you had, like, two -- two
25 things about DACA. Was there something about losing --

1 Q. Okay. I'll back up and break it down.

2 A. Okay.

3 Q. Your -- your report, and specifically
4 Paragraph 11, talks about loss of permission to work in
5 the United States.

6 Do you see that in the very first words
7 of your Paragraph 11?

8 A. Uh-huh.

9 Q. Okay. So do you understand that when an
10 individual loses Deferred Action for Childhood Arrivals,
11 loses DACA, that that individual also loses permission
12 to work in the United States?

13 A. I would assume those two that -- yes, that if
14 they lost DACA status, then they would also not be
15 eligible to work in the United States.

16 Q. And is that what you're talking about in
17 Paragraph 11 when you say, "some DACA participants could
18 be expected to migrate out of the U.S. back to their
19 country of origin"?

20 MR. DISHER: Objection. It misstates his
21 testimony.

22 THE REPORTER: Objection what?

23 MR. DISHER: Misstates his testimony. Go
24 ahead.

25 A. Can you say that one more time?

1 Q. Sure. You -- you mentioned a moment ago that
2 you understand that if somebody loses DACA, that
3 individual loses work authorization. Is that right?

4 A. Yes. But that's not what I'm saying here.

5 Q. Okay. Okay. Help me understand what you're
6 saying in Paragraph 11 when you say "with loss of
7 permission to work in the U.S."

8 A. So that would be if DACA participants, as part
9 of the DACA program, were not able to work in the
10 United States. I was not making any statement about
11 loss of DACA status so that -- so that there the
12 concept, I think, would be that assuming that DACA
13 status was still present and they were unable to work,
14 lost permission to work.

15 Q. Okay. Do you have any understanding of the
16 legal relationship between Deferred Action for Childhood
17 Arrivals and federal work authorization?

18 MR. DISHER: Object to the extent it
19 calls for a legal conclusion.

20 Go ahead and answer if you can.

21 A. I don't.

22 Q. Okay. So I'm going to talk with you within
23 that frame that you were just discussing. We will posit
24 a DACA recipient that has lost work authorization and
25 can no longer work -- be employed legally.

1 A. Uh-huh.

2 Q. Do you understand that the loss of permission
3 to work would apply to working as an employee of a
4 company?

5 MR. DISHER: Objection, vague.

6 A. Say that one more time.

7 Q. Do you understand that loss of permission to
8 work in the U.S. would mean loss of permission to work
9 as an employee for a company or a government?

10 MR. DISHER: Same objection.

11 A. In the United States?

12 Q. Yes.

13 A. Yes. Okay.

14 Q. Okay. Do you understand whether loss of
15 permission to work in the U.S. would extend to working
16 as an independent consultant?

17 MR. DISHER: Objection, vague and to the
18 extent it calls a legal conclusion.

19 Other than that, go ahead.

20 A. I would assume that it would mean work any
21 kind of work.

22 Q. And so it would also mean loss of permission
23 to work as an independent consultant. Is that right?

24 A. I --

25 MR. DISHER: Same objections.

1 A. I think I would assume that, yes.

2 Q. Okay. Would it also -- would loss of
3 permission to work in the U.S. in your mind also mean
4 loss of permission to mow lawns for money?

5 MR. DISHER: Objection, calls for
6 speculation. Objection to the extent it calls for a
7 legal conclusion.

8 Go ahead again.

9 A. Yes. I would think, yes, that basically
10 working and receiving compensation for work would be
11 part of losing permission to work.

12 Q. Would your opinion regarding the likelihood of
13 return migration of DACA recipients change if the loss
14 of permission to work for them only extended to work as
15 employees and did not cover self-employed or independent
16 contractor work?

17 MR. DISHER: Objection, speculation.
18 Objection to the extent it calls for a legal conclusion.

19 Other than that, go ahead and answer.

20 A. I think if -- I think probably if DACA
21 participants were denied -- so they continue to have
22 legal status and they were denied permission to work but
23 that they could go out and mow lawns and bring in some
24 revenue, that probably would reduce the number of DACA
25 participants that might return to their country of

1 origin or another country.

2 Q. Would it also be fair to say that the number
3 of DACA recipients likely to return to their home
4 country would be reduced if DACA recipients, in addition
5 to mowing lawns and making monies, could open their own
6 business and generate income either through being an
7 accountant or a restaurant owner?

8 MR. DISHER: Same objections.

9 A. Yes.

10 Q. Okay. I'm going to circle back around to my
11 original question, which I asked poorly because we
12 didn't have a common understanding of the loss of
13 permission to work.

14 So when we talk about DACA recipients
15 losing permission to work and their likelihood of
16 returning to their home country, in your opinion, does
17 the DACA recipient at that point stand in similar shoes
18 to an unauthorized immigrant who also does not have
19 permission to work, at least with respect to their
20 employment opportunities?

21 MR. DISHER: Objection, speculation.
22 Objection, calls for a legal conclusion.

23 Go ahead and answer if you can.

24 A. I'm not sure I followed you.

25 Q. Okay.

1 A. Try one more time.

2 Q. Would you agree with me that an unauthorized
3 immigrant who is not authorized to work has limited
4 employment possibilities?

5 MR. DISHER: Same objections.

6 A. An authorized immigrant who does not have
7 permission to work?

8 Q. Has limited employment opportunities.

9 A. Yes.

10 Q. Okay. And would you agree to me -- with me
11 that a DACA recipient who has lost permission to work
12 also has limited employment opportunities?

13 A. Yes.

14 MR. DISHER: Same objections.

15 Q. So would you agree with me then that the DACA
16 recipient who has lost work authorization is, at least
17 with respect to employment opportunities, similarly
18 positioned to an unauthorized immigrant?

19 MR. DISHER: Same objections.

20 A. Yeah. I don't -- don't know that, because I
21 know -- know relatively little about the details of the
22 DACA -- kind of what their status would be.

23 So I would anticipate there would be a
24 difference between the two, because if one is here
25 legally, or meaning they have permission to live here

1 and couldn't be deported, assuming they were compliant
2 with the DACA requirements, and the person who was
3 undocumented but not here legally and regardless of if
4 they were identified that they could be deported, there
5 would probably be some differential between the two.

6 Q. And would there be a differential with respect
7 to employment opportunities?

8 MR. DISHER: Same objections.

9 A. I would expect so, yes.

10 Q. What might those differentials with respect to
11 employment opportunities be?

12 MR. DISHER: Same objections.

13 A. I would think that an employer would be more
14 likely to employ somebody who was here legally as
15 opposed to somebody who wasn't.

16 Q. Even if they were both not work authorized?

17 MR. DISHER: Objection. It calls for
18 speculation.

19 A. Yeah. Probably not.

20 Q. So when you say "probably not" --

21 A. Well, I hadn't really kind of thought that
22 whole thing through.

23 Q. Okay. So if an employer is hiring for an open
24 position and has an applicant who is undocumented and
25 thus lacks permission to work and somebody who received

1 DACA but is -- has lost permission to work, would those
2 two employment applicants be similarly situated?

3 MR. DISHER: Objection, calls for
4 speculation. Objection to the extent it calls for a
5 legal conclusion.

6 A. I would think so, yes.

7 Q. So would it be fair to say then that -- that
8 your declaration does not posit that DACA recipients who
9 lose their permission to work are any more likely to
10 return to their home country than an unauthorized person
11 living in Texas?

12 MR. DISHER: Objection, vague.

13 A. Yeah. I don't -- I don't think I could state
14 that. No, I don't think so.

15 Q. When you say "I can't state that," do you mean
16 that your report does not take a position on that, or is
17 that I asked a question that was so confusing you
18 couldn't answer it?

19 A. Probably a little bit of -- well, certainly
20 the latter.

21 Q. Okay. Okay. There's a little bit of a double
22 negative there, unfortunately, because of the way I have
23 to ask the question; but let me ask it a little bit more
24 in the positive sense.

25 Does your declaration opine that a DACA

1 recipient who loses permission to work is more likely to
2 return to their home country than an unauthorized
3 immigrant living in Texas who is similarly not --
4 doesn't have permission to work?

5 A. The -- is this -- my testimony or -- what's
6 the thing called, the --

7 Q. Your testimony.

8 A. It does not address the issue of -- and so I'm
9 not making a comparison between the two.

10 Q. All right. So then is it fair to say that
11 your report or your declaration does not posit that DACA
12 recipients who lose permission to work are any more or
13 less likely to return to their home country than an
14 unauthorized person in Texas?

15 A. It doesn't make a comparison between the two.

16 MR. DISHER: Let's take a five-minute
17 break.

18 MS. PERALES: Absolutely. Absolutely.

19 (RECESS TAKEN)

20 Q. (BY MS. PERALES) Dr. Potter, we've taken a
21 short break and now we're back together again. Over the
22 break, we've discussed a little bit about this case
23 among all of the lawyers, and you've been here for that.

24 So I'd like to start with a question of
25 whether you understand that the relief that Texas and

1 the other plaintiff states are seeking in this case is
2 an end to the DACA initiative?

3 A. I do understand that now.

4 Q. Okay. And as you stated earlier, your
5 understanding is that if an individual were to lose
6 DACA, that individual would lose permission to work in
7 the U.S.?

8 A. Yes.

9 Q. Okay. And our understanding is now the same
10 on that.

11 Would it be correct to say that in your
12 report you do not offer the opinion that there will be a
13 positive effect on the size of the unauthorized
14 immigrant population in Texas because of DACA?

15 MR. DISHER: Objection, vague.

16 A. Could you state that one more time?

17 Q. Yes. Would it be correct to say that you do
18 not offer the opinion in your declaration that there is
19 a positive effect on the size of the unauthorized
20 immigrant population in Texas because of DACA?

21 MR. DISHER: Same objection.

22 A. Yeah. I don't -- I don't address that in it.

23 Q. Would it be correct to say that you do not
24 offer the opinion in your declaration that DACA creates
25 net negative effects on the Texas economy?

1 A. I don't --

2 MR. DISHER: Objection, vague. Go ahead.

3 A. I don't address that.

4 Q. Would it be correct to say that you do not
5 offer the opinion in your declaration that DACA causes
6 specific expenditures by Texas State agencies that are
7 different from expenditures made on unauthorized
8 immigrants in Texas?

9 MR. DISHER: Same objection.

10 A. I don't address that.

11 Q. Would it be correct to say that you do not
12 offer the opinion that DACA increases unauthorized
13 immigration to the United States?

14 A. I don't address that.

15 Q. Okay. Now, in your declaration at the end are
16 a number of citations under the heading "References."
17 Do you see that?

18 A. Yes.

19 Q. Okay. I count one, two, three, four, five,
20 six, seven, eight. Is it correct to say there are eight
21 works cited in your report?

22 A. Yes.

23 Q. Okay. Do these articles or published studies
24 form the entire basis of the opinions that you offer in
25 your declaration?

1 MR. DISHER: Objection, vague.

2 A. No.

3 Q. Okay. In addition to the eight articles that
4 are cited in your declaration, what else do you rely on
5 to form your opinions?

6 A. My experience and knowledge of the field of
7 demography and population issues.

8 Q. Okay. Would it be accurate to say that your
9 experience and knowledge in demography is not specific
10 as to the reasons why an immigrant would choose to
11 return or migrate to their home country?

12 MR. DISHER: Objection, vague.

13 A. Could you say it one more time?

14 Q. Sure. You've mentioned that your opinions are
15 based on your knowledge of demography and your past work
16 and experience. Is that correct?

17 A. Yes.

18 Q. Is it correct to say that your knowledge of
19 demography and your past work and experience does not
20 include a specific study of the reasons why an
21 unauthorized immigrant might choose to return to their
22 home country?

23 MR. DISHER: Objection, vague. Go ahead.

24 A. Yeah. I think probably to get that specific
25 that would be true.

1 Q. Okay. Are there any other scholarly works or
2 studies other than the ones cited in your declaration
3 that support your opinion that losing permission to work
4 in the United States would cause some DACA recipients to
5 return to their home country?

6 A. I believe there are other -- there is other
7 research that would support that.

8 Q. Can you name any specifically today?

9 A. No.

10 Q. Okay. Paragraph 4, if you would turn with me.
11 In Paragraph 4, I'm going to read you a sentence from
12 Paragraph 4 after the parenthetical to the Aguila
13 article.

14 Is it correct to say that there is a
15 sentence in Paragraph 4 that says, quote, Most
16 undocumented migrants coming to the U.S. are doing so to
17 work, unquote? Am I right in reading that?

18 A. Yes.

19 Q. Okay. Do you believe that statement to be
20 true for Texas as well?

21 A. I believe that it's true.

22 Q. Would it also be correct to say that work is
23 the reason many migrants come to Texas even when the
24 migrants lack work authorization?

25 MR. DISHER: Objection, calls for

1 speculation.

2 A. I think so.

3 Q. And, in fact, you cite Doug Massey's article
4 and his finding that undocumented migration from Mexico
5 appears to reflect U.S. labor demand and access to
6 migrant networks. Is that correct?

7 A. Yes.

8 Q. Let's take a look at your Paragraph 5. You
9 talk about inter-county migration within the
10 United States. Is that correct?

11 A. Yes.

12 Q. And you are citing the Current Population
13 Survey and an article by Ihrke?

14 A. Yes.

15 Q. Would it be fair to say that the analysis that
16 you talk about in Paragraph 5 did not look specifically
17 at undocumented workers?

18 A. It did not look at specifically undocumented
19 workers.

20 Q. I have a similar question with respect to
21 Paragraph 6. You talk about some work by Kennan and
22 Walker involving interstate migration decisions. Is
23 that right?

24 A. Yes.

25 Q. Okay. Would it be correct to say that the

1 study that you're discussing here by Kennan and Walker
2 did not look specifically at undocumented workers?

3 A. That's correct.

4 Q. Okay. So would it then be fair to say, with
5 respect to Paragraph 5 and 6, that we don't know if
6 those findings hold true specifically for the
7 undocumented-worker population?

8 MR. DISHER: Objection, vague.

9 A. Yes, it's fair to say we don't know that.

10 Q. Would you agree with me that the income
11 prospects for undocumented workers might be tempered by
12 factors that are unique to them like the presence of
13 migrant networks or the concern about drawing
14 immigration enforcement by moving to a place with a job
15 where the immigrant doesn't look like the people in
16 their community?

17 MR. DISHER: Objection, calls for
18 speculation.

19 A. I'm not sure I followed it.

20 Q. All right. I'll break it down for you.

21 In Paragraph 5 and 6 and 4, you talk
22 about factors that are associated with migrant flows,
23 and we get more specific in Paragraph 4 with respect to
24 undocumented workers and the reason why they move where
25 they move for jobs. Is that right?

1 A. Yeah. I don't know.

2 Q. Let's look at Paragraph 7. In Paragraph 7
3 you discuss a study by Orrenius and Zavodny. Is that
4 correct?

5 A. Yes.

6 Q. By the way, I think those are superhero names,
7 Orrenius and Zavodny. I went and looked it up. They're
8 both women, which makes it even better.

9 I'm going to take a moment and mark that
10 study.

11 (Exhibit No. 4 marked)

12 Q. You now have what has been marked Deposition
13 Exhibit No. 4. Do you recognize this as the study by
14 Orrenius and Zavodny that you cited in your declaration?

15 A. Yes.

16 Q. Okay. Is it correct to say that the Orrenius
17 study that is Exhibit 4 did not look at Texas?

18 A. I think Texas was part of it. So it wasn't
19 Texas was excluded. It was, I think, focusing on the
20 United States.

21 Q. Turn with me to the Table 1, which I believe
22 is the third page.

23 A. Oh, yes. Sorry.

24 Q. No. It's my fault for not pointing you to the
25 specific information.

1 Can you tell me if Texas appears in
2 Table 1?

3 A. It does not.

4 Q. Do you understand the Orrenius study to be a
5 study of states with mandatory E-Verify laws?

6 A. Yes.

7 Q. Do you know whether Texas has a mandatory
8 E-Verify law?

9 A. I don't know.

10 Q. What is your understanding of mandatory
11 E-Verify?

12 A. My understanding would be that when somebody
13 applies for a position, they need to provide proof of
14 authorization to work.

15 Q. Do you understand the E-Verify system to be a
16 computer-based system to check work authorization?

17 A. That's my understanding, yes.

18 Q. And do you understand that in states that
19 have - let's see how they put it - laws mandating
20 universal use of E-Verify that employers are required to
21 screen job applicants in the E-Verify computer system?

22 MR. DISHER: Objection to the extent it
23 calls for a legal conclusion.

24 A. That's my understanding.

25 Q. Okay. And do you understand E-Verify to be a

1 system maintained by the federal government?

2 A. I don't know. I think it's -- for some
3 reason, I think it's variable from state to state.

4 Q. Okay. And it's possible there could be
5 variation from state to state on who is required to
6 screen their employees --

7 A. Correct.

8 Q. -- through E-Verify?

9 Would you agree with me that the
10 experience of an unauthorized immigrant in applying for
11 work in a universal E-Verify state is going to be
12 different from an unauthorized immigrant applying for
13 work in a state that doesn't require E-Verify like
14 Texas?

15 MR. DISHER: Objection, calls for
16 speculation.

17 A. I would think so.

18 Q. In Paragraph 7, you identify some findings in
19 the Orrenius study. Look at Paragraph 7 with me and
20 count, if you would, the lines, one, two, three, four,
21 five. On the sixth line down, I'm going to read you the
22 sentence and you tell me if I read it correctly.

23 Quote, Orrenius and Zavodny found that
24 possible undocumented immigrants in states that had
25 implemented such efforts may have more difficulty

1 working and more difficulty changing jobs, unquote.

2 Is that correct?

3 A. Yes.

4 Q. Would it be fair to say that if Orrenius and
5 Zavodny were looking at states with mandatory E-Verify
6 that their findings would not be applicable to a state
7 like Texas that does not have mandatory E-Verify with
8 respect to difficulty working and difficulty changing
9 jobs?

10 MR. DISHER: Objection, vague.

11 Objection, calls for speculation.

12 A. Say it one more time.

13 Q. Sure. I'll rephrase it slightly because I
14 think I can do a better job.

15 Would it be correct to say that Orrenius
16 and Zavodny's findings that undocumented immigrants
17 would have more difficulty working and more difficulty
18 changing jobs in mandatory E-Verify states do not apply
19 to a state like Texas that does not have mandatory
20 E-Verify?

21 MR. DISHER: Same objections.

22 A. I would expect there to be a differential.

23 Q. All right. But can you explain to me if their
24 findings, which were specifically based on studying
25 mandatory E-Verify in those particular states, whether

1 those findings can apply at all to Texas since Texas
2 doesn't have mandatory E-Verify?

3 MR. DISHER: Objection, vague.

4 A. I think it would probably apply to certain
5 types of jobs that do require some verification of work
6 status; but certainly there are, I think, a fair number
7 of jobs within Texas that don't require verification and
8 so it certainly wouldn't apply to those types of
9 positions.

10 Q. And can you specifically identify any jobs in
11 Texas that are subject to E-Verify requirements?

12 A. Well, I don't know specifically. I do know
13 working for the State would be one. So that would be
14 one.

15 Q. Okay. So can we agree then that with respect
16 to jobs in Texas that are not for the State of Texas, at
17 least, that the findings of Orrenius and Zavodny about
18 unauthorized immigrants having more difficulty working
19 and more difficulty changing jobs because of universal
20 E-Verify would not apply in Texas?

21 MR. DISHER: Objection, vague.

22 Objection, asked and answered.

23 A. Yeah. I don't think you could make a blanket
24 statement about that, but probably some -- some aspects
25 of it would apply and others wouldn't, again, because

1 there are jobs that do -- would require verification of
2 permission to work within Texas.

3 Q. But you can't identify any other than working
4 for the State of Texas?

5 A. I'm not that familiar with -- I'm not familiar
6 with the other types of jobs that might require that in
7 Texas.

8 Q. Now, there's the -- I'd like to talk to you
9 about your last sentence in Paragraph 7 regarding the
10 findings of Orrenius and Zavodny suggesting that
11 unauthorized immigrants leave states that adopted
12 universal E-Verify laws.

13 Do you see that sentence there?

14 A. Yes.

15 Q. You say that Orrenius and Zavodny found some
16 evidence, and do you recall what that "some evidence"
17 was?

18 A. I think, as I recall, they saw a decline in
19 estimates of the unauthorized immigrants in those
20 states, and they attributed -- and didn't -- did not
21 also see an increase in other states, and they
22 attributed that to the unauthorized immigrants moving
23 out of the United States.

24 Q. And they attributed that to the states
25 adopting universal E-Verify laws. Is that correct?

1 A. That was -- that was the -- they implied that
2 that was a likely explanation for their findings.

3 Q. Would it be fair to say that that finding is
4 not applicable to Texas because Texas does not have
5 universal E-Verify?

6 A. I don't think that I could say that.

7 Q. Okay. Well, do you understand that Orrenius
8 and Zavodny looked at states that previously had
9 E-Verify, the voluntary program like Texas, and
10 subsequently adopted a universal E-Verify program?

11 A. Yes.

12 Q. Okay. So the situation in those states before
13 the adoption of E-Verify we can agree would be similar
14 to the situation in Texas today, that it's a voluntary
15 program for employers?

16 MR. DISHER: Objection, vague.

17 A. Yes, I think so.

18 Q. Okay. So when Orrenius and Zavodny suggest
19 that unauthorized immigrants leave states that adopt
20 universal E-Verify laws, that suggestion or that finding
21 would not be applicable to Texas because Texas has not
22 adopted a universal E-Verify law. Correct?

23 A. I'm not sure that I can say that.

24 Q. And why is that?

25 A. I just don't -- I don't have any evidence or

1 information about whether or not it would apply.

2 Q. And when you say "it would apply," you mean
3 Orrenius and Zavodny's findings regarding unauthorized
4 immigrants who leave states with universal E-Verify
5 laws?

6 MR. DISHER: Objection, vague.

7 A. Yes.

8 Q. Turn with me, if you would, to the Orrenius
9 article at Page 7. I'd like you to look with me at the
10 "Results" section, which is preceded by a number five.
11 Do you see that around the middle of the page?

12 A. Yes.

13 Q. Okay. Now, if you read down with me to the
14 second paragraph -- okay. It's actually not the second
15 paragraph. It's the first paragraph.

16 There is a sentence, and I'm going to
17 count the lines down in the top - one, two, three, four,
18 five, six. Is it correct to say that Orrenius and
19 Zavodny found no statistically significant negative
20 effect of universal E-Verify laws on non-recent
21 immigrants?

22 MR. DISHER: Objection, misstates the
23 document.

24 A. Okay. Could you state your question again?

25 Q. Uh-huh. I'll ask a new question.

1 MS. PERALES: If you want a running
2 objection, Todd, you can have it.

3 Q. In Paragraph 1 of this "Results" section,
4 after the sentence "Table 2 reports the results," is it
5 correct to say that Orrenius and Zavodny found, quote,
6 The presence of a universal E-Verify mandate last year
7 has a significant negative effect on the number of
8 likely unauthorized immigrants who arrived 1 to 5 years
9 ago, unquote? Did I read that correctly?

10 A. Yes.

11 Q. And then in the next sentence do I read
12 correctly when I read, quote, The estimated effects for
13 likely unauthorized immigrants as a whole, non-recent
14 immigrants, and new immigrants are also negative but not
15 statistically different from zero, unquote? Is that
16 correct?

17 A. Yes.

18 Q. Okay. Is it fair to say then that Orrenius
19 and Zavodny found that with respect to immigrants who
20 had -- unauthorized immigrants who have been present
21 more than five years that there was a statistically
22 significant negative effect of universal E-Verify laws?

23 MR. DISHER: Objection. The document
24 speaks for itself.

25 A. That's my understanding of their conclusion.

1 Q. Would you agree with me then that the Orrenius
2 study does not provide research support for the
3 contention that immigrant unauthorized workers in Texas
4 who have lived in the U.S. at least five years are
5 likely to leave the state?

6 MR. DISHER: Objection, vague.

7 A. It does not specifically address Texas.

8 Q. It also specifically found that with respect
9 to immigrants who had been present for more than five
10 years, there was no statistically significant negative
11 effect of universal E-Verify. Correct?

12 A. Correct.

13 Q. Let's look at Paragraph 8. In your second
14 sentence, tell me if I read this correctly: Quote, The
15 causes of return migration are difficult to address
16 because there is limited research and understanding of
17 return migration, unquote.

18 Did I read that correctly?

19 A. Yes.

20 Q. Can you explain that sentence a little bit
21 more or expand on it for me.

22 A. There just isn't that much research looking at
23 migrants who have returned to their country of origin
24 and their reasons for why they returned.

25 Q. Other than the articles that you cite in your

1 declaration, are you aware of any other research on the
2 topic of return migration?

3 A. Not that I could cite today, but I believe
4 there are other articles and research out there that
5 have looked at that.

6 Q. Okay. Are you aware of any articles or
7 research that focused on return migration from Texas
8 specifically?

9 A. I'm not familiar with them, but there may be
10 some that have.

11 Q. Are you familiar with any research on the
12 possibility of return migration of people who receive
13 DACA?

14 A. I'm not familiar with any research on that.

15 Q. Are you aware of any research on return
16 migration that focuses on young adults brought to the
17 U.S. as children who have resided in the U.S. at least
18 10 years?

19 A. So research on children who have come to the
20 United States as children?

21 Q. And who have resided in the U.S. at least
22 10 years.

23 A. Not specifically, but I believe there are some
24 studies that have looked at DACA recipients -- or DACA
25 participants.

1 any -- any specific studies about return migration that
2 you relied on for your declaration other than the ones
3 that are cited in your declaration?

4 A. That I --

5 Q. Relied on while preparing your declaration
6 that are not cited in your declaration.

7 A. Can I cite them today?

8 Q. Yes.

9 A. I don't think I can cite them today.

10 Q. Okay. Let's take a look at Paragraph 8. You
11 say in your first sentence after the comma, and tell me
12 if I read this correctly, quote, It is reasonable to
13 conclude that some DACA participants would return to
14 their country of origin if they lose or are not given
15 permission to work in the U.S., unquote.

16 Did I read that correctly?

17 A. Yes.

18 Q. How many is "some"?

19 A. More than one.

20 Q. Can you help me find a top number for "some"?

21 Do you have --

22 A. All of them.

23 Q. Do you think it's reasonable to conclude that
24 all DACA participants would return to their country of
25 origin if they lost work authorization?

1 A. From everything I've looked at and thought
2 about, I don't think I could actually put a number on
3 it.

4 Q. So larger than one but less than all. Is that
5 it?

6 A. Yes.

7 Q. Okay. Do you have any other more specific
8 estimate of the number of DACA participants who would
9 return to their country of origin?

10 A. I do not.

11 Q. Did you perform any analysis yourself
12 personally that would shed light on the number of DACA
13 participants that you think would return to their
14 country of origin if they lost work authorization?

15 MR. DISHER: Objection, vague.

16 A. I did not.

17 Q. Would you agree with me that it is reasonable
18 to conclude that a DACA participant might return to
19 their country of origin for reasons unrelated to
20 employment?

21 MR. DISHER: Objection, calls for
22 speculation.

23 A. I think that's reasonable that some DACA
24 participants do return to the their country of origin,
25 not necessarily for employment.

1 Q. So, for example, it might be possible that a
2 DACA participant returns to their country of origin to
3 marry. Correct?

4 A. That's possible.

5 Q. Or possible that the person returns to their
6 country of origin to care for an elderly parent. Is
7 that correct?

8 A. Yes.

9 Q. Okay. So given that there are various reasons
10 that DACA participants might return to their home
11 country, do you have any way of quantifying the number
12 of DACA recipients who might leave because of
13 employment-related reasons like losing work
14 authorization?

15 A. I don't. I think to do that you would have to
16 have some information about the number lost and look at
17 changes over time. You'd have to look at it in terms of
18 what actually happens, which would be speculation at
19 this point.

20 Q. Would you say that when you use the word
21 "some" when you say, some DACA participants would return
22 to their country of origin if they lose permission to
23 work in the U.S., that your use of the word "some" there
24 is hypothetical?

25 MR. DISHER: Objection, vague.

1 A. When you say "hypothetical"?

2 Q. Meaning that you consider it a theoretical
3 possibility but you don't have a number to assign to
4 that group of "some."

5 MR. DISHER: Objection, vague.
6 Objection, compound.

7 A. I don't have a number.

8 What was the first part of the question?

9 Q. And, thus, the possibility is presented as one
10 that is theoretical but not quantified?

11 MR. DISHER: Same objection.

12 A. Yeah. I mean, I think -- I think it's
13 unlikely that it's just theoretical. I mean, I believe
14 that if DACA participants lost permission to work that
15 would be a motivating factor for some of them to return
16 to their country of origin.

17 Q. But you're -- has any DACA participant told
18 you personally that they would return to their home
19 country if they lost work authorization?

20 A. No.

21 Q. In Paragraph 8, at the bottom of the page and
22 then flowing over to the top of the next page, you have
23 identified some characteristics that would make it more
24 or less likely for some DACA participants to emigrate if
25 they were denied permission to work in the U.S. Is that

1 between regular undocumented immigrants and DACA
2 participants.

3 Q. And would one of those distinctions be that
4 the DACA recipient may have been working with work
5 authorization for some period of time before losing it?

6 A. Compared to undocumented immigrants, yes.

7 Q. Okay. In your last sentence you say, "The
8 variation in characteristics within the DACA applicant
9 population suggests that some do have characteristics
10 that have been associated with higher probability of
11 emigration from the U.S."

12 And is it fair to say that what you have
13 in the parentheses there are those characteristics that
14 you think some DACA recipients have that are associated
15 with a higher probability of return?

16 MR. DISHER: Objection, misstates his
17 testimony.

18 Go ahead and answer.

19 A. The -- so -- so these are some examples, not
20 necessarily an exhaustive list. And, yes, that I think
21 there are some DACA participants that share similar
22 characteristics to unauthorized immigrants that are
23 associated with a probability of return migration.

24 Q. Have you done any study of the characteristics
25 within the DACA population to assess how many have the

1 characteristics that you associate with a probability --
2 a higher probability --

3 A. I have --

4 Q. -- of return?

5 A. I have not.

6 Q. Okay.

7 A. Sorry. I didn't mean to --

8 Q. Are you aware of any studies not done by you
9 that examine the characteristics within the DACA
10 population to see whether some have a higher probability
11 of return to their home country?

12 A. Not specifically for probability of return
13 migration, but there are studies looking at the
14 characteristics of DACA participants.

15 Q. Did you look at any of those studies to try to
16 get a handle on the number of DACA participants who
17 might have characteristics associated with a higher
18 probability of return to their home country?

19 A. I did not.

20 Q. Can you tell me what year a DACA recipient had
21 to have arrived in the United States by in order to get
22 DACA?

23 A. I don't recall.

24 Q. Can you tell me the age under which a DACA
25 recipient had to have arrived in the United States in

1 United States at least up until about 2008?

2 A. Yes. Until about 2008, there was a steady
3 increase in the unauthorized population in the
4 United States --

5 Q. Okay.

6 A. -- or we estimate that there has been.

7 Q. And IRCA was enacted sometime before then. Is
8 that right?

9 A. Yes. I think it was '84.

10 Q. '86, perhaps?

11 A. 86, yeah.

12 Q. Okay. We're going to leave the Wishnie
13 article alone now.

14 A. Okay.

15 Q. I'm not going to ask you any more questions
16 about it.

17 Would it be correct to say that the
18 opinions in your report are not based on speaking with
19 any individual DACA recipients?

20 A. Yes.

21 Q. Would it be correct to say that the opinions
22 in your report are not based on any survey research of
23 DACA recipients?

24 A. Probably not completely.

25 Q. Are you aware of any of the --

1 A. I think the Current Population Survey probably
2 surveyed some DACA participants.

3 Q. Good catch. Yes.

4 So other than the Current Population
5 Survey or any other census survey that might have
6 captured the responses of DACA recipients, would it be
7 correct to say that the opinions in your report are not
8 based on survey research of DACA recipients?

9 A. Yes.

10 Q. Okay. Are you aware of any organizations of
11 undocumented students at UTSA?

12 A. Vaguely.

13 Q. Have you ever sought to attend a meeting of
14 any undocumented students at UTSA?

15 A. No.

16 Q. You talked about some of the possibilities
17 with respect to DACA recipients leaving Texas after
18 losing work authorization, and you described that --
19 that it's greater than one but less than all, and I'd
20 like to return for a minute to that.

21 Is it more likely than not, in your
22 estimation, that the number of DACA recipients who would
23 return to their home country from Texas after losing
24 work authorization would be fairly small?

25 MR. DISHER: Objection, vague.

1 A. Yeah. I don't -- I don't think I could say --
2 I don't believe that I can quantify a number other than
3 I think some would.

4 Q. Okay. So then is it within the realm of
5 possibility that the number could be fairly small?

6 MR. DISHER: Objection, vague.

7 A. Yes, in the same turn as it could be that it
8 could be really large.

9 Q. Do you consider it equally likely that the
10 number of DACA recipients who would return to their
11 country after losing work authorization is small or very
12 large?

13 MR. DISHER: Objection, vague.

14 A. I don't think I could state that.

15 Q. Okay. So is it your position that you cannot
16 say that it is more likely that the number of DACA
17 recipients who would return is small versus very large?

18 MR. DISHER: Objection, vague.

19 A. Can you -- can you define what "small" and
20 what "large" is?

21 Q. Okay. Well, is it -- okay. Let's talk about
22 it in terms of percents because numbers could be
23 confusing.

24 Do you consider it equally likely that
25 more than 50 percent or less than 50 percent of DACA

1 recipients would return to their home country after
2 losing work authorization?

3 A. I really don't think I could put a percent on
4 it, but I do state that I think most DACA participants
5 would stay in the United States.

6 Q. Would you agree with me that if DACA
7 recipients had to arrive in the United States before
8 they were 16 years old that that characteristic of
9 arriving in the United States before age 16 would tend
10 to increase the probability of them staying in the
11 United States if they lost work authorization?

12 MR. DISHER: Objection, vague.
13 Objection, asked and answered. Objection, incomplete
14 hypothetical.

15 A. Compared to?

16 Q. Those who arrived in the United States after
17 the age of 16.

18 MR. DISHER: Same objections.

19 A. But then they're not eligible for DACA or --

20 Q. Right. So the characteristic -- would you
21 agree with me that the characteristic of DACA recipients
22 of having arrived in the United States before the age of
23 16 makes them less likely to return when compared to the
24 general unauthorized immigrant population?

25 MR. DISHER: Objection, vague.

1 representing a defendant-intervenor in this case. I am
2 just going to touch on a few areas and try not to take
3 up too much more of your time.

4 The same rules apply that Ms. Perales
5 explained earlier. If you don't understand my question,
6 please just let me know and I will try to rephrase it.
7 We'll try not to talk over each other, and hopefully we
8 can move this right along.

9 A. Okay.

10 Q. Okay. I just want to ask a little bit about
11 the articles in your declaration. Did you select the
12 articles that you cited in the declaration?

13 A. Yes.

14 Q. How did you select them?

15 A. Reading that during -- well, during a search
16 through bibliographic software and identifying a lot of
17 articles and sorting through the ones that I thought
18 were relevant to what I was asked to testify about.

19 Q. And why did you choose these particular
20 articles included in your declaration?

21 A. They seemed most relevant to the points that I
22 was hoping to make and also concise. So there's some
23 degree of parsimony was also a factor.

24 Q. Did you select any research or articles
25 included in your declaration that directly address the

1 topics of DACA?

2 MR. DISHER: Objection, vague.

3 A. No.

4 Q. Why not?

5 A. They weren't -- I didn't find any that
6 addressed the issue of probability of return migration
7 among DACA participants.

8 Q. In considering which scholarly references to
9 include in your declaration, did you consider the
10 reliability of the authors as a subject matter?

11 A. Yeah. For those that I was familiar with,
12 yes, that was a factor.

13 Q. Which ones are you unfamiliar with?

14 A. I didn't -- I don't know Wishnie. I shouldn't
15 say "know." I've not read Wishnie -- Wishnie's work
16 before. And then Kennan and Walker I wasn't familiar
17 with before. The others I've had some familiarity with
18 before.

19 Q. Okay. So I'd like to go to Paragraph 4 of
20 your declaration, which I believe is Exhibit 3. I
21 believe this is an Emma Aguila article for the research.

22 Are you familiar with her work?

23 A. I'm sorry. I'm -- I'm -- can you point me to
24 where we are?

25 Q. So Paragraph 4, about midway down, there's a

1 correct?

2 A. Yes.

3 Q. Okay. Have there been any other studies that
4 address this issue in the last 17 years?

5 MR. DISHER: Objection, vague.

6 A. If there are, there aren't many.

7 Q. Okay. You don't know for sure?

8 A. I didn't -- I don't think I found any when I
9 looked that specifically address this.

10 Q. And when we say "this," do we mean young
11 immigrants -- how would you characterize the -- the
12 Regan and Olsen research as you cited it here in this
13 paragraph?

14 A. They were looking at return migration --

15 Q. Okay.

16 A. -- of immigrants.

17 Q. Okay.

18 MS. GREGORY: I'd like to have this
19 marked, please.

20 (Exhibit No. 7 marked)

21 Q. Dr. Potter, do you recognize Exhibit 7, titled
22 "You Can Go Home Again: Evidence From Longitudinal
23 Data"?

24 A. Yes.

25 Q. And is this the article that you cited in

1 Paragraph 9 of your declaration?

2 A. Yes.

3 Q. Did this study address DACA recipients?

4 A. No.

5 Q. Did this study distinguish between documented
6 and undocumented immigrants?

7 A. No.

8 Q. On Page 339, the first page, looking at the
9 right-hand column, the second full paragraph, it begins
10 "in this paper." Do you see where --

11 A. Yes.

12 Q. Okay. So in this paragraph the author states
13 that they use longitudinal data from the 1979 youth
14 cohort of the National Longitudinal Surveys (NLSY79) to
15 study emigration, with an "E," in one cohort of
16 immigrants.

17 Did I read that correctly?

18 A. Yes.

19 Q. What is the National Longitudinal Surveys?

20 A. It's a survey that follows people over time
21 and asks a range of questions about their
22 characteristics and socioeconomic characteristics.

23 Q. So what would be the 1979 youth cohort of the
24 National Longitudinal Surveys?

25 A. That would be the cohort that they started

1 following in 1979.

2 Q. Do you know when -- or what age a cohort is
3 when they begin following them?

4 A. I don't know.

5 Q. Okay. So the sentence immediately after that
6 I just read says that more than 750 NLSY79 respondents
7 were born abroad to foreign nationals.

8 Did I read that correctly?

9 A. Yes.

10 Q. So this particular cohort was born in or
11 before 1979. Is that correct?

12 A. Yes.

13 Q. Let's look at Footnote 2, which is on the same
14 page. The very last sentence says, quote, By 1996, only
15 71 foreign cases were eligible to be interviewed for
16 NLSY79, end quote.

17 Did I read that correctly?

18 A. Yes.

19 Q. So in your reading, does that mean that there
20 were only -- there was only complete data for
21 71 individuals?

22 A. In the survey?

23 Q. Yes.

24 A. Not in the survey, but that they had
25 identified as, quote, unquote, foreign cases in the

1 survey.

2 Q. So what does that mean, only 71 foreign cases
3 were eligible to be interviewed? What is your
4 understanding of that?

5 A. So they were looking at people who started in
6 the 1979 cohort and followed them over time; and by
7 1996, they had identified 71 cases who had returned
8 to -- I think to their country of origin or had left the
9 United States.

10 Q. Dr. Potter, are you familiar with the DACA
11 eligibility requirements?

12 A. Vaguely.

13 Q. Are you aware that DACA applicants had to be
14 under 31 years old by 2012 to be eligible for deferred
15 status and, therefore, wouldn't have been born yet in
16 1979?

17 A. Yes.

18 Q. You can set that to the side, Exhibit 7.

19 MS. GREGORY: I'd like to have this
20 marked, please.

21 (Exhibit No. 8 marked)

22 Q. Dr. Potter, you're looking at Exhibit 8. Is
23 this the article that you cite in Paragraph 10 of your
24 declaration?

25 A. Yes.

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF TEXAS
3 BROWNSVILLE DIVISION
4 STATE OF TEXAS, et al.,)
5 Plaintiffs,)
6 VS.)
7)
8 UNITED STATES OF AMERICA, et al.,) Case No. 1:18-CV-68
9 Defendants,)
10)
11 and)
12)
13 KARLA PEREZ, et al.,)
14)
15 Defendant-Intervenors.)

16 REPORTER'S CERTIFICATE
17 DEPOSITION OF LLOYD POTTER, Ph.D.
18 JUNE 27, 2018

19 I, Kathleen Casey Collins, Certified Shorthand
20 Reporter in and for the State of Texas, hereby certify
21 to the following:

22 That the witness, LLOYD POTTER, Ph.D., was duly
23 sworn by the officer and that the transcript of the oral
24 deposition is a true record of the testimony given by
25 the witness;

26 That the deposition transcript was submitted on
27 _____, ____, to the witness or to the attorney for
28 the witness for examination, signature and return to me
29 by _____;

30 That pursuant to information given to the
31 deposition officer at the time said testimony was

1 taken, the following includes counsel for all parties
2 of record:

3 Mr. Todd L. Disher and Mr. Trent Peroyea

Attorneys for the Plaintiffs

4 Ms. Nina Perales, Attorney for

Defendant-Intervenors

5 Mr. Andrew Bobb, Attorney for Defendants

Ms. Katherine Gregory, Attorney for New Jersey

6 Office of Attorney General

7 I further certify that I am neither counsel for,
8 related to, nor employed by any of the parties or
9 attorneys in the action in which this proceeding was
10 taken, and further that I am not financially or

11 otherwise interested in the outcome of the act

12 Certified to by me this ____ day of Jun

13 2018.

14 _____
KATHLEEN CASEY COLLINS

15 Texas CSR NO. 2018

Certificate Expires 12/31/18

16 Ken Owen & Associates

Firm Certificate No. 115

17 801 West Avenue

Austin, Texas 78701

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